

WARREN S. BOGGESS

FEBRUARY 27, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 8316]

The Committee on the Judiciary, to whom was referred the bill (H. R. 8316), for the relief of Warren S. Boggess, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 5, strike out the figures "\$10,740.15", and insert in lieu thereof "\$3,610.21".

Page 2, lines 4 and 5, strike out "in excess of 10 per centum thereof".

The purpose of the proposed legislation as amended is to pay the sum of \$3,610.21 to Warren S. Boggess, of the Air Research and Development Command of the Department of the Air Force. Such sum represents damages sustained by him for loss of furniture resulting from a flood on August 13, 1955, while stored in the Guardian Moving & Storage Warehouse, in Baltimore, Md., awaiting shipment to Mr. Boggess in Madrid, Spain. This sum is in addition to the amount as set by law of \$6,500, and previously paid Mr. Boggess.

STATEMENT OF FACTS

Mr. Boggess submitted a claim against the United States for \$18,790.15 (correct tabulation of items claimed was \$19,140.15). His claim was approved and paid in the amount of \$2,500 which was the maximum that could be paid under the law existing at that time (Military Personnel Claims Act of 1945). An additional amount of \$4,000 was later paid to Mr. Boggess when Congress increased the maximum allowable for this type of claim from \$2,500 to \$6,500. This bill would authorize and direct payment of an additional \$10,740.15.

Air Force regulations provide that before an item may be approved for payment, it must be determined to be reasonable, useful, or proper for the claimant to have under the attendant circumstances. Those regulations also provide that depreciation will be computed. In so doing, consideration is given to the type, composition of the article involved, its cost when lost or damaged beyond economical repair, and time elapsed between the date of acquisition and the date of accrual of the claim.

The Judge Advocate General, as designee of the Secretary of the Air Force for the administration of this claims law (10 U. S. C. 2732), has established policies which set maximum amounts allowable on items which are either exorbitant in price, excessive in number, or extremely valuable.

Mr. Boggess claimed a total of \$6,445 on rugs alone. One rug is valued at \$5,000. It is the position of the Department of the Air Force that such an item should have been covered by private insurance as the United States is not an absolute insurer in those circumstances. This is supported by the fact that Congress has declared a ceiling of \$6,500 on all property lost or damaged in any one claim.

It is the policy of the Department of the Air Force to allow only a maximum of \$500 for a single rug, regardless of its cost, price, or value in excess of that amount. Mr. Boggess was awarded \$500 for the \$5,000 rug. The other rugs were allowed as claimed, for a total of \$1,945 for all of the rugs. If Congress is inclined to allow more for the rug, the depreciated adjusted dollar value of the \$5,000 rug would be \$2,500, or \$2,000 more than he was allowed.

In adjudicating this claim, no award was made for the grand piano because the claimant collected \$1,900 for that item from the insurer. That amount represents the depreciated value of the item as computed by the insurer. However, had there been no insurance on this particular item, the depreciated adjusted dollar value as computed by the Department of the Air Force would have been \$148 more than that paid by the insurer. The adjusted dollar theory, which allows for an upward adjustment for the basic cost before the application of the principles of depreciation in conformance with cost-of-living index issued by the Department of Labor, was not being used by the Department of the Air Force when this claim was considered. If Congress desires to grant relief under this bill, the adjusted dollar theory could be applied.

The depreciated adjusted dollar value of the items, other than the piano and \$5,000 rug, which could not be paid by the Air Force because of the \$6,500 ceiling, is \$1,462.21. If Congress does not desire to adhere to the policies established to administer this claims law, it may desire to pay, in addition to that \$1,462.21, the following amounts:

Additional amount on piano.....	\$148
Additional amount on rug.....	2,000

The Department of the Air Force recommends that favorable consideration be given to this bill and that an appropriate award be left to the determination of the Congress.

The Department of the Air Force has made a most extensive examination of this legislation and states that it would have no objection to the enactment of the bill, however, leaves to the determination of Congress the amount to be appropriated. Therefore,

after a very careful review of the entire file it is the opinion of the committee that the sum as set forth in the bill is excessive and agree with the Department of the Air Force that \$3,610.21 would be a just and fair adjustment, and recommend the enactment of the bill as amended.

The author of the bill advises the committee that no attorney is involved and to strike the 10-percent provision of the bill.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, December 10, 1957:

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the comments of the Department of the Air Force with respect to H. R. 8316, 85th Congress, a bill for the relief of Warren S. Bogges.

The purpose of the bill is to authorize and direct the payment of \$10,740.15 to Mr. Warren S. Bogges, a civilian employee of the Department of the Air Force, to compensate him for loss of his furniture resulting from a flood on August 13, 1955, while his furniture was stored in the Guardian Moving & Storage Warehouse, Baltimore, Md. This loss occurred while Mr. Bogges' furniture was in transit storage awaiting shipment to him in Madrid, Spain.

Mr. Bogges submitted a claim against the United States for \$18,790.15 (correct tabulation of items claimed was \$19,140.15). His claim was approved and paid in the amount of \$2,500 which was the maximum that could be paid under the law existing at that time (Military Personnel Claims Act of 1945). An additional amount of \$4,000 was later paid to Mr. Bogges when Congress increased the maximum allowable for this type of claim from \$2,500 to \$6,500. This bill would authorize and direct payment of an additional \$10,740.15.

Air Force regulations provide that before an item may be approved for payment, it must be determined to be reasonable, useful, or proper for the claimant to have under the attendant circumstances. Those regulations also provide that depreciation will be computed. In so doing, consideration is given to the type, composition of the article involved, its cost when lost or damaged beyond economical repair, and time elapsed between the date of acquisition and the date of accrual of the claim.

The Judge Advocate General, as designee of the Secretary of the Air Force for the Administration of this claims law (10 U. S. C. 2732), has established policies which set maximum amounts allowable on items which are either exorbitant in price, excessive in number, or extremely valuable.

Mr. Bogges claimed a total of \$6,445 on rugs alone. One rug is valued at \$5,000. It is the position of the Department of the Air Force that such an item should have been covered by private insurance as the United States is not an absolute insurer in those circumstances. This is supported by the fact that Congress has declared a ceiling of \$6,500 on all property lost or damaged in any one claim.

It is the policy of the Department of the Air Force to allow only a maximum of \$500 for a single rug, regardless of its cost, price, or value in excess of that amount. Mr. Boggress was awarded \$500 for the \$5,000 rug. The other rug were allowed as claimed, for a total of \$1,945 for all of the rugs. If Congress is inclined to allow more for the rug, the depreciated adjusted dollar value of the \$5,000 rug would be \$2,500, or \$2,000 more than he was allowed.

In adjudicating this claim, no award was made for the grand piano because the claimant collected \$1,900 for that item from the insurer. That amount represents the depreciated value of the item as computed by the insurer. However, had there been no insurance on this particular item, the depreciated adjusted dollar value as computed by the Department of the Air Force would have been \$148 more than that paid by the insurer. The adjusted dollar theory, which allows for an upward adjustment for the basic cost before the application of the principles of depreciation in conformance with cost-of-living index issued by the Department of Labor, was not being used by the Department of the Air Force when this claim was considered. If Congress desires to grant relief under this bill, the adjusted dollar theory could be applied.

The depreciated adjusted dollar value of the items, other than the piano and \$5,000 rug, which could not be paid by the Air Force because of the \$6,500 ceiling, is \$1,462.21. If Congress does not desire to adhere to the policies established to administer this claims law, it may desire to pay, in addition to that \$1,462.21, the following amounts:

Additional amount on piano-----	\$148
Additional amount on rug-----	2, 000

The Department of the Air Force recommends that favorable consideration be given to this bill and that an appropriate award be left to the determination of the Congress.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

DAVID S. SMITH,
Assistant Secretary of the Air Force.

○